



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/531,716

09/09/2005

Peter Schuller

22409-00326-US

1419

30678

7590

05/28/2009

CONNOLLY BOVE LODGE & HUTZ LLP  
1875 EYE STREET, N.W.  
SUITE 1100  
WASHINGTON, DC 20006

EXAMINER

HOLMES, REX R

ART UNIT

PAPER NUMBER

3762

MAIL DATE

DELIVERY MODE

05/28/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/531,716	<b>Applicant(s)</b> SCHULLER, PETER	
	<b>Examiner</b> REX HOLMES	<b>Art Unit</b> 3762	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 19 February 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-14, 24-26 and 29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8, 10-14, 24-26 and 29 is/are rejected.
- 7) ☒ Claim(s) 9 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-8, 10-11, 13-14, 24-26 and 29 are rejected under 35 U.S.C. 102(b) as being anticipated by Diaz (U.S. Pat. 5,824,026).

3. Regarding claim 1, Diaz discloses a lead body with insulating material (17, 44), multiple layers of conductive elements (34, 42, 46) that extend the full length of the lead from one end to the other (Fig. 4). Diaz further discloses that each of the conductive fibers, (i.e. 50, 54) are configured to be a separate channels and are separated by insulating fibers (Figure 5; Col. 5, ll. 53-67). Diaz discloses that the conductors are configured to be separate channels and are identified by direct visualization as shown in figure 5 (Col. 5, ll. 53-67).

4. Regarding claim 2, Diaz discloses that the conductors are arranged in a helically wound arrangement (Fig. 4).

5. Regarding claims 3-5, Diaz disclose that the conductors extend from one end to the other and are the same length to the end points (Figs. 1 and 4).

6. Regarding claims 6-8 and 29, Diaz discloses that the conductors are wound clockwise for a length and anti-clockwise for the same length (Fig. 4).

7. Regarding claims 10-11, Diaz discloses that the conductors are wound and twisted all of the way down the length of the body. It is further noted that the conductors are twisted 180 degrees at various portions of the body. It is further noted that one of the portions is directly at the mid-point of the lead (Figs. 1-2 and 4).
8. Regarding claims 13 and 24-25, the number of conductive elements varies per layer (Fig. 5).
9. Regarding claim 14, Diaz discloses that the conductors can be made of platinum (Col. 5, ll. 21-22).
10. Regarding claim 26, Diaz discloses that the conductors are constant with regards to its neighbors over the length of the lead (Figs. 4-5).

***Claim Rejections - 35 USC § 103***

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to

consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

13. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Diaz.

14. Regarding claim 12, Diaz discloses the claimed invention but does not disclose expressly that there are the same number of conductors in each layer. It would have been an obvious matter of design choice to a person of ordinary skill in the art to modify the lead as taught by Diaz with the same number of conductors in each layer, because Applicant has not disclosed that the same number of conductors provides an advantage, is used for a particular purpose, or solve a stated problem. One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well with the lead design as taught by Diaz, because it provides multiple layers of a plurality of conductors and since it appears to be an arbitrary design consideration which fails to patentably distinguish over Diaz.

15. Therefore, it would have been an obvious matter of design choice to modify Diaz to obtain the invention as specified in the claim(s).

#### ***Allowable Subject Matter***

16. Claim 9 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Response to Arguments***

17. Applicant's arguments filed 2/19/09 have been fully considered but they are not persuasive.

18. Regarding claims 1, 24 and 26, Applicant argues that the helical arrangement of the wires in the reference fail to be readily identifiable at each end based on their position. The conductors of Diaz are located in three distinct layers of the lead and do not change their positions from one layer to the next and therefore remain in a constant layer within the lead. Thus, the conductors can be distinguished based on position within the lead. Further, since each of the individual wires is separate, a simple electrical signal sent through each wire would allow for easy identification of each wire. It is noted that the apparatus does not claim that the wires are configured for easy visual identification just that they can be identifiable.

### ***Conclusion***

19. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to REX HOLMES whose telephone number is (571)272-8827. The examiner can normally be reached on M-F 8:00 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Angela Sykes can be reached on 571-272-4955. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/R. H./  
Examiner, Art Unit 3762

/George R Evanisko/  
Primary Examiner, Art Unit 3762